



Paper No. 4

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OFFICE OF PETITIONS

In re Application of :
Skiadopoulos et al. : DECISION GRANTING
Application No. 09/900,112 : PETITION
Filed: 5 July, 2001 :
Attorney Docket No. 015280-422100US :

This is a decision on the petition filed on 26 September, 2001, requesting that the above identified application be accorded a filing date of 5 July, 2001, with 30 sheets of drawings as a part of the original disclosure.

The application was filed on 5 July, 2001. On 31 August, 2001, however, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings. Additionally, petitioner was informed that the oath or declaration, the abstract, and a Sequence Listing in compliance with 37 CFR 1.821-1.825 were required. A two (2)-month period for reply was set.

On 26 September, 2001, in response, *inter alia*, the present petition, a check for \$130.00, and 30 sheets of drawings were filed. Petitioners argue that the 30 sheets of drawings were filed with the other application papers on 5 July, 2001, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied on 26 September, 2001. The postcard receipt shows an Office date stamp of 5 July, 2001, and the above-identified application number and acknowledges receipt of, *inter alia*, 30 sheets of drawings. Petitioners request that the application, including 30 sheets of drawings, be accorded a filing date of 5 July, 2001.

A review of the record reveals that no sheets of drawings are located among the application papers received on 5 July, 2001. However, the evidence is convincing that the application papers deposited on 5 July, 2001, included 30 sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including 30 sheets of drawings, is entitled to a filing date of 5 July, 2001.

The Notice of Incomplete Nonprovisional Application mailed on 31 August, 2001, was sent in error and is hereby vacated to the extent that it stated that the application had been deposited without drawings.

The petition is granted to the extent indicated above. The oath or declaration, abstract, and Sequence Listing in compliance with 37 CFR 1.821-1.825 are still required.

Applicant is given TWO MONTHS from the mailing date of this decision to file a signed oath/declaration, an abstract, and a Sequence Listing in compliance with 37 CFR 1.1.821-1.825. Applicant must provide a computer readable form (CRF) copy of the Sequence Listing, an initial paper or compact disc copy of the Sequence Listing as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing, and, where applicable includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). This time period may be extended pursuant to 37 CFR 1.136(a). **Failure to comply with these requirements will result in the abandonment of the application.**

Since the application was filed on 5 July, 2001, without a signed oath/declaration, the \$130.00 surcharge set forth in 37 CFR 1.16(e) is required. The petition fee, which is unnecessary because the petition is due to USPTO error, will be credited towards the surcharge.

The application is being returned to the Office of Initial Patent Examination to await the response required above and for further processing with a filing date of 5 July, 2001.

Telephone inquiries specific to this matter should be directed to
Petitions Attorney Douglas I. Wood at (703) 308-6918.

A handwritten signature in cursive script, appearing to read "Beverly M. Flanagan".

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy